United Nations S/2004/660

Security Council

Distr.: General
18 August 2004

Original: English

Letter dated 17 August 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 5 May 2004 (S/2004/364). The Counter-Terrorism Committee has received the attached third report from Kyrgyzstan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

04-46785 (E) 081004 111004

Annex

Letter dated 10 August 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Kyrgyzstan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to transmit herewith the answers to the questions and additional information (additional report) on the report of the Kyrgyz Republic submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure). The information about the proposals of the working group for the introduction of amendments to the current criminal legislation relating to the increase in penalties for participation in terrorist activity will be provided soon (paragraph 1.7 "Implementation measures").

(*Signed*) Kainarbek **Toktomushev**
Chargé d'affaires a.i.
Permanent Mission of the Kyrgyz Republic to the United Nations

Enclosure

[Original: Russian]

Supplementary report of the Government of the Kyrgyz Republic in response to the questions and comments of the United Nations Security Council Counter-Terrorism Committee

Question:

Kyrgyzstan stated in its second report (at page 3) that the bill on combating the financing of terrorism and the laundering of income had been referred to the Parliament. **The CTC would appreciate receiving an outline of the relevant provisions of this bill as well as a progress report on its enactment.**

Response:

The enactment of the bill on combating the financing of terrorism and the laundering of income is a first step towards strengthening the legislation on the financing of terrorism and the laundering of income.

The main provisions of the bill concern:

- Establishment of a financial monitoring body — a Financial Investigation Unit — to achieve the aims and purposes of the bill;
- Raising the requirements governing identification of clients of financial organizations (without which banks are not authorized to open accounts or carry out transactions thereon, or to open anonymous accounts, etc.);
- Establishment of a 10-year period for preservation of information and records relating to all clients and all transactions carried out by them;
- Establishment of requirements governing compulsory monitoring of business deals and transactions with States that illicitly produce narcotic drugs;
- Establishment of requirements governing the drafting by banks of internal monitoring rules to combat the laundering of income obtained by criminal means and the financing of terrorism;
- Establishment of norms to provide access by a duly authorized body to all databases and registers held by public authorities;
- The imperative for all credit, banking and financial institutions to exercise particular vigilance over transactions involving organizations and entities from States or territories that are not implementing the Financial Action Task Force (FATF) recommendations or are insufficiently implementing them;
- Monitoring of transactions carried out by politically significant entities, etc.

The bill on combating the financing of terrorism and the laundering of income obtained by criminal means was approved by a decision of the Board of the National Bank of the Kyrgyz Republic of 4 September 2002.

The Government approved the bill by a decree of 2 December 2002.

On 13 February 2003, the bill was discussed by the Budget and Finance Committee of the Legislative Assembly of the *Zhogorku Kenesh* (Parliament). In response to questions raised by individual deputies, the Committee decided to hold consultations on article 7 of the bill, which establishes a list of criteria for compulsory monitoring of transactions.

On 20 May 2003, the bill was approved by the Budget and Finance Committee. Its discussion by the Parliament was also planned.

By Government order of 25 August 2003, a working group was established to revise the bill in line with the 40 new FATF recommendations. The group comprised Mr. U. K. Sarbanov (group leader), Chairman of the National Bank; Mr. A. A. Sultanov, deputy of the Legislative Assembly (lower house of Parliament); and staff of the Office of the Prime Minister, the Ministry of Home Affairs, the National Security Service, the Science and Research Institute of the Ministry of Home Affairs and the Financial Police under the Ministry of Finance.

This working group carried out the revision of the bill.

On 14 October 2003, a letter was received from the International Monetary Fund (IMF) requesting a copy of the bill.

On 27 October and 14 November 2003, pursuant to resolutions of the Chairman of the National Bank, the bill was transmitted to the Legal Department of IMF.

From 5 to 11 February 2004, a delegation from IMF consisting of IMF experts Margaret Cotter and Teresa Donovan visited the National Bank in connection with the revision of the bill on combating the financing of terrorism and the laundering of income obtained by criminal means to take into account the 40+8 FATF recommendations. The delegation was presented with a memorandum containing the National Bank's response.

The bill was then revised, taking into account the work of the IMF delegation and the new 40+8 FATF recommendations.

The final meetings of the working group established by Government order of 25 August 2003 were held on 12 and 15 March 2004.

The bill was approved by a Government decree of 31 March 2004.

On 27 May 2004, it was discussed and approved by the Legislative Assembly Committee on Law and Order and Control of Crime and Corruption.

On 28 May 2004, the bill was read and approved by the Budget and Finance Committee, taking into account observations and proposals made by deputies and by the Association of Commercial Banks and Financial and Finance/Credit Institutions of Kyrgyzstan.

In June 2004, the bill was submitted for consideration to the Legislative Assembly of the *Zhogorku Kenesh* (Parliament). It is currently before a plenary session of the chamber of the Legislative Assembly.

Consideration of the bill has been postponed until autumn 2004.

Consideration of the following two bills currently before the Parliament is also to be postponed until the autumn:

1. A bill introducing amendments to the Code on Administrative Responsibility, which would establish administrative liability for failure by organizations conducting transactions involving monetary or other movable and/or fixed assets to comply with the provisions of the legislation to combat the financing of terrorism and the laundering of income obtained by criminal means relating to the recording, storage and provision of information concerning transactions that are subject to compulsory monitoring, as well as internal monitoring procedures;

2. A bill introducing amendments to the Criminal Code, proposing a complete revision of article 183 on the laundering of income obtained by criminal means and a new article 226-1 establishing liability for the financing of terrorism.

Question:

For effective implementation of subparagraph 1 (a) of the resolution, *States are required, inter alia, to regulate alternative money remittance services such as hawala*. Kyrgyzstan indicated in its second report (at page 4) that the extent of transfers through alternative informal networks is negligible. **The CTC would, nevertheless, welcome an indication from Kyrgyzstan of what steps it intends to take in order to fully meet the requirements of this subparagraph of the resolution**.

Response:

A State system for classification of payment transactions was established by a decision of the Board of the National Bank (of 3 September 2003, registered with the Ministry of Justice on 26 September 2003) to ensure openness and transparency of payments and to create a system of indices for analysing non-cash flows in the Kyrgyz Republic.

In addition, the Bank carries out regular analyses of international payments, settlements and monetary transfers, broken down by currency, number of transactions and money transfer system used, as well as analyses of the banking services market, based on information provided by the Republic's commercial banks.

It should be noted that by joint resolution No. 916 of 31 December 2002, the Government and the National Bank approved a State programme for 2003-2005 which envisages reform of the banking and payments systems to ensure optimal correlation of cash and non-cash monetary transfers in the Kyrgyz Republic and the creation of an effective system of non-cash settlements and corresponding infrastructure.

The National Bank is currently carrying out a range of measures to implement the State programme and to establish a stand-by centre to ensure the functioning of the payments system in the event of unforeseen circumstances. In addition, in the area of reforms of the payments system, a new version of the draft statute on non-cash settlements in the Kyrgyz Republic is being prepared which would regulate relations arising from non-cash payments and monetary transfers when using new, effective payment tools, such as direct debit, bank payment cards, etc.

Successful implementation of the above-mentioned measures will allow for enhanced monitoring of the circulation of monetary assets, transparency of non-cash

monetary flows and qualitatively enhanced development of the financial sector as a whole.

Under the bill on combating the financing of terrorism and the laundering of income obtained by criminal means, regulation of alternative money remittance services, such as "hawala", will be carried out by a duly authorized financial monitoring body which will be able to transmit to law-enforcement agencies information on any breaches of the law which are detected.

Question:

For effective implementation of subparagraph 1 (a) of the resolution, *States are required, inter alia, to impose an obligation on financial institutions and other intermediaries to report suspicious transactions to the relevant authorities.* The CTC notes (at page 4) of the second report that the National Bank of Kyrgyzstan has sent a **circular letter** to banks, financial and credit institutions recommending that internal procedures be established for identifying and tracking their customers, and for recognizing and detecting any unusual activity. The CTC would be grateful to receive a progress report on **steps taken to require banks, financial and credit institutions to report unusual activity to the National Bank or other authority, and whether Kyrgyzstan intends to extend the obligation to report suspicious transactions to other intermediaries.**

Response:

In order to safeguard Kyrgyzstan's reputation, protect its financial and banking system and ensure that its banks are not used for transactions involving the laundering of income obtained by criminal means, the National Bank has adopted regulatory measures including provisions that prevent the use of banks and their subsidiaries for fraudulent and other unlawful activities. These include:

- Strict requirements to establish the identity of clients wishing to open accounts, or of persons requesting a bank to conduct specific transactions. For this purpose, temporary instructions for handling deposits have been drawn up (approved by decision No. 4/4 of the Board of the National Bank of 19 February 2003 and registered with the Ministry of Justice as decree No. 35-03 of 25 March 2003);

- A decision has been adopted establishing requirements for identifying entities operating in offshore zones and drawing up lists of such zones (decision No. 13/2 of 16 April 2003 of the Board of the National Bank, registered with the Ministry of Justice as decree No. 37-03 of 22 April 2003) in order to prevent transactions for the legalization (laundering) of income obtained by criminal means, to support efforts to combat the financing of terrorism and to ensure transparency of bank transactions. In addition, amendments and additions have been made to article 8 of the Act on banks and banking activities in the Kyrgyz Republic (Act No. 63 of 26 March 2003), which now specifically prohibits entities registered in offshore zones from holding capital in Kyrgyz banks (the list of offshore zones is established by the National Bank).

The bill on combating the financing of terrorism and the laundering of income obtained by criminal means makes it compulsory to report information on suspicious transactions and transactions involving monetary assets or other movable

or fixed property that are covered by the list of criteria for compulsory monitoring of transactions and applies to the following entities:

> "Information-reporting entities, namely any of the following natural and/or legal persons: banks (including subsidiaries), financial/credit and other institutions that are licensed and regulated by the National Bank, including exchange bureaux and pawnshops; professional stockbrokers; commodity exchanges; insurance companies; organizations and individuals entrusted with the management of property; casinos and other gaming institutions possessing slot machines, roulettes, or other gaming equipment or devices, betting shops, as well as creators and organizers of lotteries, totalizators and computer (electronic) games; organizations that register rights to fixed and/or moveable property with the State Vehicular Inspectorate; postal and telegraph services performing money transfers and other organizations making settlements and/or payments; agents for transactions involving fixed assets, if they are involved in transactions for the purchase or sale of fixed assets on behalf of their clients; precious-metal and precious-stone merchants involved in any cash transactions with clients; lawyers, notaries, accountants, auditors and other persons planning or carrying out transactions or business deals on behalf of their clients in the following areas: purchase and sale of fixed property; management of monetary assets, shares or other assets on behalf of their clients, opening and management of share portfolios, raising funds to establish organizations or to ensure their functioning, management, purchase or sale; leasing operations; charities; entities of offshore zones conducting activities in the Kyrgyz Republic."

Question:

For effective implementation of subparagraph 1 (a), *States are required to freeze without delay the funds, financial assets or economic resources of individuals and entities, both resident and non-resident, who commit, attempt to commit or participate in or facilitate the commission of terrorist acts.* It should be noted that for this purpose, the funds and other financial resources need not be the proceeds of crime but could be legal in origin and yet be used for terrorism either within or outside the territory of Kyrgyzstan. In its second report (at page 6) Kyrgyzstan indicated that the procedure for freezing assets assumed to belong to terrorists is provided for in the bill on combating the financing of terrorism and the laundering of income obtained by criminal means. The CTC would be grateful to **receive an outline of the relevant provisions of that bill and a progress report on its enactment.**

Response:

Under article 3 of the bill on combating the financing of terrorism and the laundering of income obtained by criminal means, banks and other financial or credit institutions authorized to open and maintain bank accounts are required to suspend the transactions of natural and legal persons reported to be involved in terrorist activities (or the financing of terrorism) within three working days of the date on which the client's transaction order would have been carried out, and to transmit the information to a duly authorized State body no more than one day following the suspension of the transaction.

If, within the stipulated time frame, no order has been received from the duly authorized body to suspend for a further period the relevant transaction by natural or legal persons reported to be involved in terrorist activities (or the financing of terrorism), then banks and other financial or credit institutions authorized to open and maintain bank accounts may execute the transaction in monetary or other assets as directed by the client.

A duly authorized State body may suspend transactions involving monetary or other assets for up to five working days even if only one of the parties engaging in such transactions is a natural or legal person reported to be involved in terrorist activities (or the financing of terrorism).

The suspension or halting of monetary and other transactions of natural and legal persons reported to be involved in terrorist activities (or in the financing of terrorism) for an additional period of time beyond the deadline prescribed by order of a duly authorized body requires an instruction, decision or ruling by a court, or a decision by the authorities investigating the matter, accompanied by the authorization of the public prosecutor.

If, within the time frame stipulated in the order by a duly authorized body, no such instruction, decision or ruling by a court or decision by the investigatory authorities with the authorization of the public prosecutor to suspend the relevant transactions for an additional period of time or to halt them has been received, then banks and other financial or credit institutions authorized to open and maintain bank accounts may execute the transaction in monetary or other assets as directed by the client.

A progress report on the enactment of this bill has been provided in response to the first question.

Question:

Effective implementation of subparagraph 1 (d) of the resolution *requires a State to have in place a mechanism to register, audit and monitor the collection and use of funds and other resources by religious, charitable and other associations*, with a view to ensuring that these are not diverted from their stated purposes, in particular, to the financing of terrorism. The CTC would be grateful **to receive an indication of steps it intends taking in order to fully meet the requirements of this subparagraph of the resolution.**

Response:

In the bill on the financing of terrorism and the laundering of income obtained by criminal means, it is noted that the main purpose of the law is to create a legislative basis for the prevention, detection and investigation of activities linked to the financing of terrorism and the laundering of income obtained by criminal means and to provide for the establishment and activities of a duly authorized State body responsible for receiving, analysing and circulating information on suspicious transactions and transactions subject to compulsory monitoring under the provisions of the law with the right to demand that entities reporting information adopt the measures to combat the financing of terrorism and the laundering of income obtained by criminal means envisaged in this law and in other regulatory instruments insofar as they do not contradict the provisions of this law.

The bill is aimed at regulating relations between citizens of the Kyrgyz Republic, foreign citizens, stateless persons permanently resident in the Kyrgyz Republic and organizations conducting transactions involving monetary or other assets with a view to preventing, detecting and suppressing activities linked to the financing of terrorism and the laundering of income obtained by criminal means.

Question:

Subparagraph 2 (e) of the resolution requires States, inter alia, to ensure in their domestic law that punishment *reflects the seriousness of terrorist acts*. In reply to this subparagraph, Kyrgyzstan indicated in its second report (at page 14) that a **working group** was established to draw up proposals for the introduction of amendments to the current criminal legislation relating to the increase in penalties for participation in terrorist activity. The CTC would be grateful **to receive a progress report on the proposals.**

Response:

[Left Blank]

Question:

Kyrgyzstan stated in its second report (at page 20) in response to subparagraph 3 (e) of the resolution that, under article 12 of the Kyrgyzstan Constitution, *international treaties and agreements which have taken effect in accordance with a procedure prescribed by law, are an integral part of the laws of Kyrgyzstan*. The CTC would like to know how Kyrgyzstan authorities enforce the provisions of international instruments in practice, in the absence of specific legislation. For example, how are penal sanctions imposed in relation to conduct that is required to be criminalized by the provisions of an international instrument to which Kyrgyzstan is a party?

Response:

Under Act No. 89 of 21 July 1999 on international treaties to which the Kyrgyz Republic is a party, international treaties constitute the legal basis for the Kyrgyz Republic's international relations and, in accordance with the Constitution, are an integral and directly enforceable part of the legislation of the Kyrgyz Republic.

In addition, article 18 of the Act on international treaties provides for the immediate enactment of a law or additional legislation in the event of discrepancies between the norms of an international treaty and the Republic's legislation or for the purposes of implementing an international treaty to which the Kyrgyz Republic is a party.

Further, article 19 of the Act envisages a special procedure for declaring acceptance of the binding nature of international treaties on the Kyrgyz Republic. Accordingly, if an international treaty contains stipulations that necessitate amendments to individual provisions of the Constitution, a legislative decision as to its binding nature on the Kyrgyz Republic may be enacted only once the relevant revisions have been made to the Constitution or a review of its provisions has been conducted according to established procedure.

The Kyrgyz Republic believes in strict observance of the norms of international law and wishes to reaffirm its adherence to the basic principle of international law — the principle of implementation, in good faith, of international obligations.

Question:

The CTC would be grateful for a report on the implementation in domestic law of the relevant conventions and protocols relating to terrorism to which Kyrgyzstan has already become a party, **as well as a progress report on Kyrgyzstan's joining the relevant conventions and protocols relating to terrorism to which it has yet to become a party.**

Response:

The Kyrgyz Republic has acceded to the following international conventions on combating terrorism:

- International Convention for the Suppression of the Financing of Terrorism (1999);
- International Convention for the Suppression of Terrorist Bombing (1997);
- Convention on the Marking of Plastic Explosives for the Purpose of Identification (1991);
- International Convention Against the Taking of Hostages (1979);
- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents (1973);
- Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
- Convention for the Suppression of Unlawful Seizure of Aircraft (1970);
- Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963);
- Shanghai Convention on Combating Terrorism, Separatism and Extremism (ratified by the Kyrgyz Republic on 10 April 2002).

In addition, internal procedures are under way to enable Kyrgyzstan to accede to the following conventions and agreements on combating terrorism:

- Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988);
- Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988);
- Convention on the Physical Protection of Nuclear Material (1987).

Question:

The CTC is aware that Kyrgyzstan may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be content to **receive a copy of any such report or questionnaire as part of Kyrgyzstan's response to these matters as well as details of any efforts to implement international best practice, codes and standards which are relevant to the implementation of the resolution.**

Response:

We have no such report or questionnaire at our disposal relevant to the implementation of the resolution.

United Nations S/2004/661

Security Council

Distr.: General
18 August 2004

Original: English

Letter dated 17 August 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 5 May 2004 (S/2004/362). The Counter-Terrorism Committee has received the attached fourth report from Ireland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrei I. **Denisov**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

04-46736 (E) 200904

Annex

Letter dated 30 July 2004 from the Chargé d'affaires of the Permanent Mission of Ireland to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I refer to the letter of 30 April 2004 from the former Chairman of the Counter-Terrorism Committee, Inocenio Arias, and have the honour to forward to you the fourth report of the Government of Ireland (see enclosure).

Ireland attaches great importance to its compliance with the terms of Security Council resolution 1373. To this end, I welcome the spirit of constructive cooperation in which Ireland and the Committee are currently engaged and would welcome any further comments or questions that you may have in relation to any of the items addressed in the report or contained in the resolution

(*Signed*) Philomena **Murnaghan**
Deputy Permanent Representative
Chargé d'affaires a.i.

Enclosure*

Fourth report by Ireland to the Counter-Terrorism Committee established pursuant to the paragraph 6 of resolution 1373 (2001)

The following report has been compiled in response to the specific comments and questions on 'Implementing Measures' contained in the letter of 30 April 2004 of the Chairman of the Counter-Terrorism Committee.

1. Implementation Measures

Effectiveness in the protection of financial systems

1.1 The Money Laundering Investigation Unit at the Garda Bureau of Fraud Investigation (Irish F.I.U.) has allocated a Detective Sergeant to deal with issues believed to be connected with the financing of terrorism. This is adequate to handle the enquiries relating to the financing of terrorism. Enquiries are conducted on Suspicious Transactions (STRs) and those transactions suspected of being related to the financing of terrorism are reported to the Assistant Commissioner Crime and Security.

The strength of the Money Laundering Investigation Unit will be reviewed on full enactment of the Criminal Justice (Terrorist Offences) Bill, 2002.

Members of the Garda Síochána (Irish Police Force) from Crime and Security Branch and the Garda Bureau of Fraud Investigation together with representatives from the Department of Finance, the Central Bank, Irish Financial Service Regulatory Authority, and the Department of Justice, Equality and Law Reform form the 'Money Laundering Working Group on Terrorist Finance'. The most recent meeting of this group focused on Terrorist Financing Guidance Notes for circulation within the finance industry.

1.2 Statutory Instrument 242 of 2003 came into effect on 15 September 2003. Two further regulations on money laundering have been introduced since 7 August 2003 when Ireland submitted its third report to the UN Security Council Counter Terrorism Committee. Details of these regulations, which further bolster Ireland's fight against money laundering, are as follows:

Statutory Instrument 417 of 2003 contains a technical amendment to the exemption clause on reporting obligations under Statutory Instrument 242 of 2003 in relation to solicitors in order to reflect more accurately the wording of the directive.

Statutory Instrument 3 of 2004 prescribes activities under Section 32 (10) of the Criminal Justice Act 1994 which apply to the newly designated bodies under Statutory Instrument 242 of 2003. These refer to activities in relation to the carrying on of the business of

* Annex is on file with the Secretariat and is available for consultation.

accountant, auctioneer, estate agent, tax advisor; certain activities in relation to solicitors; activities consisting of the provision of services in relation to the purchasing of land, the provision of investment business services or investment advice; the carrying out of trustee or custodian duties for a collective business scheme; the provision of money remittance services; activities of administration companies consisting of the provision of services to collective investment schemes; activities of dealers in high value goods; and activities of operating a casino.

Copies of S.I. 242 of 2003, S.I. 416 of 2003 and S.I. 3 of 2004 are available on www.justice.ie under Law Reform - Publications.

With effect from the 15th September 2003, in accordance with Statutory Instrument 242 of 2003, extra bodies were designated for the purpose of reporting STRs. These bodies include solicitors, accountants, estate agents, tax advisors, dealers in high value goods, casinos, etc.

Under the provisions of Section 57 of the Criminal Justice Act 1994 the Garda Bureau of Fraud Investigation received notification of the following STRs in respect of 2001, 2002, 2003 and to date in 2004:

Year	STRs
2001	3040
2002	4398
2003	4254
2004 (up to 30/07/04)	2373

The above figures cannot be interpreted in any circumstances as representing the total number of suspicious transactions as such reports are, in the first instance, based on mere suspicion by the designated reporting body. On investigation the majority remain inconclusive and cannot be linked to any predicate offence.

The STRs reported are investigated by the Garda Bureau of Fraud Investigation, by the Criminal Assets Bureau or by nominated local officers appointed and trained in each Division as appropriate. Any transaction involving money laundering or other criminal activity is fully investigated and if necessary the assistance of law enforcement agencies in other jurisdictions in invoked.

1.3 The Criminal Justice (Terrorist Offences) Bill 2002, which will, inter alia, enable Ireland to accede to four more international instruments (see paragraph 1.9 below), is currently awaiting committee stage in the Oireachtas (Irish Parliament) and is expected to be enacted during the next parliamentary session.

1.4 In keeping with its international commitments and EU Regulations for combating terrorism, Ireland has reported to the European Commission the names of 6 individuals who

maintained a total of 8 accounts with financial institutions in the State. The aggregate value of funds in these accounts, which are now frozen, is €90,000.

1.5 Ireland's Consultation Paper on Establishing a Modern Statutory Framework for Charities is attached at annex 1.

1.6 There are certain special provisions applicable in criminal proceedings relating to terrorist activities, as incorporated in the Offences against the State Acts 1939-1998. These Acts contain a number of special features designed to counter domestic terrorism, for example, a non-jury 'Special Criminal Court' presided over by three judges in which trials that are terrorist-related are heard.

All members of the Garda Síochána (Irish police service) receive training in the investigation of all forms of crime. Special Units are established to focus on particular aspects of crime, such as terrorist financing methods, and members of such units receive specialist training to prepare them for this specialist work.

The Criminal Assets Bureau (CAB) was established in 1996 with the objectives of identifying and seizing the proceeds of crime. Under the provisions of the Proceeds of Crime Act 1996, the CAB may apply in the High Court for orders to freeze property believed to be the proceeds of criminal activity. Where the Court grants an interlocutory order freezing the property and that order remains in force for seven years, the CAB may apply to Court to have the property transferred to the Minister for Finance.

Orders to freeze property are granted where the CAB demonstrates to the Court, on the balance of probability (i.e. the standard of proof required in civil proceedings) that the property represents the proceeds of crime. It is not necessary that there be a criminal conviction before the Court will grant an order under the 1986 Act.

Under the Irish Constitution the judiciary is entirely independent of the executive and as such it is responsible for its own training. The Judicial Studies Institute organises training sessions and seminars on subjects of relevance to the work of Irish judges but has not conducted specific training on terrorist financing or the tracing of terrorists' assets. It should however be noted that the Irish judiciary has no prosecutorial or investigative functions.

Effectiveness of Counter-Terrorism Machinery

1.7 The use of special investigative techniques is not currently provided for in Irish legislation.

1.8 In the last 16 months (as at 23 June, 2004), 39 persons have been charged with terrorist-related offences. Nine have been convicted and 30 await trial.

1.9 The Convention on the Marking of Plastic Explosives for the Purpose of Detection entered into force in Ireland in September 2003.

Ireland has enacted legislation which will enable it to ratify the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 and the Protocol to that Convention for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf, 1988. Instruments of accession are currently being prepared and it is expected that Ireland will become party to the Convention and the Protocol before the end of 2004.

The four conventions that remain to be ratified or acceded to are as follows:

The International Convention for the Suppression of the Financing of Terrorism, 1999;
The International Convention against the Taking of Hostages, 1979;
The International Convention for the Suppression of Terrorist Bombings, 1997; and,
The Convention on the Prevention and Punishments of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973

Ireland will be in a position to become party to these conventions as soon as the Criminal Justice (Terrorist Offences) Bill 2002 is enacted. The Criminal Justice (Terrorist Offences) Bill 2002 is currently awaiting Committee stage in the Oireachtas (Irish Parliament). It is expected that it will be enacted during the next parliamentary session.

Effectiveness of Customs, Immigration and Border Controls

1.10 Ireland, like other European Union Member States, does not prevent the normal free movement of capital or current payments to or from the State by individuals or corporate entities. This freedom applies equally to EU and non-EU countries and includes the cross-border movement of cash, negotiable instruments or precious metals. However in making any such transfers or payments the financial institutions or transferors involved must be cognisant of the fact that there are financial sanctions in place under various EU Council Regulations - enforced domestically under the provisions of the Financial Transfers Act, 1992 and the European Communities Act, 1972 - which affect transfers to / from jurisdictions, entities and individuals which are the subject of UN or EU sanction.

Powers exist to seize cash under s.38, Criminal Justice Act, 1994 but are confined to drugs-linked cash being imported or exported from the state. This power, by virtue of an amendment included in the Criminal Justice (Terrorist Offences) Bill, 2002, is due to be extended to cash intended for use in the financing of terrorism. It is also due to be extended to cash that is the proceeds of crime/criminal conduct, which may be seized anywhere in the state under the Proceeds of Crime (Amendment) Bill, currently being drafted.

1.11 There are four ways in which a person born outside Ireland can obtain Irish citizenship; by means of a grant as a token of honour, by descent (in certain cases by signing the Foreign Birth Register), by naturalisation or by marriage to an Irish citizen (post-nuptial citizenship). Below is some general information about Post-Nuptial citizenship and Naturalisation.

Post-Nuptial Citizenship

A non-national married to a person who is an Irish citizen (otherwise than by naturalisation, post-nuptial declaration or honorary citizenship) may accept Irish Citizenship as his/her post-nuptial citizenship by lodging a declaration not earlier than the three years from the date of the marriage - or three years from the date on which the applicant's spouse became an Irish citizen - whichever is the later. The marriage must be subsisting and the couple must be living together as husband and wife at the time of the lodgement of the declaration.

The statutory provisions governing this process were repealed in the Irish Nationality and Citizenship Act, 2001, with effect from 30 November 2002. A transitional provision in that Act provides that non nationals who married prior to 30 November 2002 and who fulfil the statutory conditions (three years marriage etc.) may make a declaration of post-nuptial citizenship on or before 29 November 2005. Persons who marry on or after 30 November 2002, or persons who married prior to that date but do not avail of the transition period, will be required to apply for naturalisation in accordance with the provisions set out below.

Naturalisation

The Minister for Justice, Equality and Law Reform may, in his absolute discretion, grant an application for a certificate of naturalisation provided certain statutory conditions are fulfilled. In the case of a non national applicant who is the spouse of an Irish national those conditions are that the applicant must be of full age, be of good character, be married to the Irish citizen for at least 3 years, be in a marriage recognised under the laws of the State as subsisting, be living together with the Irish spouse as husband and wife, with the Irish spouse having had a period of one year's continuous residency in the island of Ireland immediately before the date of the application and, during the four years immediately preceding that period, have had a total residence in the island of Ireland amounting to two years, intend in good faith to continue to reside in the island of Ireland after naturalisation have made, either before a Judge of the District Court in open court or in such a manner as the Minister, for special reasons, allows a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State.

In other cases the Minister may, in his absolute discretion, grant an application for a certificate of naturalisation provided certain (more rigorous) statutory conditions are fulfilled. Those conditions are that the applicant must, be of full age, be of good character, have had a period of one year's continuous residency in the State immediately before the date of the application and, during the eight years immediately preceding that period, have had a total residence in the State amounting to four years, intend in good faith to continue to reside in the State after naturalisation have made, either before a Judge of the District Court in open court or in such a manner as the Minister, for special reasons, allows a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State.

It should be noted that in the context of naturalisation certain periods of residence in the State are excluded. These include periods of residence in respect of which an applicant does not have permission to remain in the State, periods granted for the purposes of study and periods granted for the purposes of seeking recognition as a refugee within the meaning of the Refugee Act, 1996.

Change of name

An Irish citizen may execute a deed poll in the High Court to change his or her name. The provisions that ensure that the person's true identity can be ascertained are as follows:

During the course of processing an application for Irish citizenship, comprehensive documentation is sought in relation to an applicant's identity and background, and this information is retained. There are cases, such as where an applicant may have fled his or her homeland in a hurry, where such documentation is not available. In most such cases, affidavits will be accepted.

In cases where the original birth certificate is available, a note is attached to the original birth certificate with details of the change of name by deed poll.

Control of Preventing Access to Weapons by Terrorists

1.12 Internationally the role that Customs can play in counter-terrorism is being given greater recognition and Irish Customs are keenly aware of what they can contribute in preventing the illegal trafficking of explosives and weapons including Weapons of Mass Destruction. Smuggling of any such weapons is an offence under customs law. As part of their role in protecting society Irish Customs plan to introduce a high-tech vehicle/container scanning system for use at Irish ports to assist in the detection of, amongst other things, such weapons.

In addition, during the Irish Presidency of the European Union in the first semester of 2004, a project team drawn from a small number of Member States was established under the Customs Cooperation Working Group to examine Customs role in counter-terrorism. The team is still working and is expected to report during the Dutch Presidency.

Control on Preventing Access to Weapons by Terrorists

Explosives:

The primary legislation that controls the importation, manufacture, transportation and storage of explosives in Ireland is the Explosives Act, 1875. All imports of explosives are controlled by means of an import licensing system regulated by the Department of Justice, Equality and Law Reform. In addition five substances (Ammonium Nitrate, Sodium Chiorate, Potassium Nitrate, Sodium Nitrate and Nitro-benzene) have been deemed to be explosives in accordance with the Explosives Act, 1875 in the interests of public safety and

security. The effect of deeming these substances to be explosives is that they attract the same controls as conventional explosives i.e. importation, transportation and storage controls. The rationale for the implementation of this control measure is the ready availability of these substances for agricultural purposes and their suitability for use in improvised explosive devices.

The Garda Síochána (Irish Police) have a responsibility for the security of explosives during transport and in some cases provide security at storage locations. Shipments of explosives are routinely escorted within the State, and when requested to do so the Irish Defence Forces will support the Garda Síochána in the escort of explosives in fulfilment of their Aid to Civil Power function.

Firearms:

The possession, use and carriage of firearms and ammunition are controlled by the Firearms Acts, 1925 to 2000. In accordance with this legislation, it is not lawful for any person to have in his or her possession, to use or to carry any firearm or ammunition unless such possession, use or carriage is authorised by a firearm certificate granted under the provisions of the Acts. The Department of Justice, Equality and Law Reform has responsibility for the import of firearms and ammunition into the State. The Department operates a restrictive importation policy with respect to firearms and ammunition. There is a prohibition on the importation of pistols, air-pistols, revolvers and stun-guns. The Criminal Justice Amendment Bill 2004 will, when enacted, unify the provisions of the importation policy and the current licensing provisions.

Relevant Legislation in relation to Firearms:

Primary Legislation

Firearms Acts, 1925 to 2000
Explosives Act, 1875

Secondary Legislation

Firearms

Firearms (Temporary Custody) Order, 1972 (S.I. No. 187 of 1972)
Firearms (Dangerous Weapons) Order 1972 (S.I. No. 251 of 1972)
Firearms Regulations 1976 (S.I. No. 239 of 1976).
European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations, 1993. (S.I. No. 362 of 1993)
Firearms Certificate for Non-Residents Order, 2002 (S.I. No. 48 of 2002)
European Communities (Acquisition and Possession of Weapons and Ammunition) (Amendment) Regulations, 2002 (S.I. No. 49 of 2002)

It is current policy to grant importation licences for only shotguns, crossbows, unrifled airguns, and rifles up to .22 inches (5.6mm) except in the case of deer hunting and competitive target shooting when bolt action rifles up to .270 inches (6.8 mm approx.) are authorised. Pistols, air-pistols, revolvers, handguns and stun guns are totally prohibited.

Persons under 16 years may not possess firearms. In addition it is current policy not to permit the importation of ammunition by individuals.

Explosives

Stores for Explosives Order, 1955 (S.I. No 42 of 1955).
Explosives (Ammonium Nitrate and Sodium Chlorate) Order, 1972 (S.I. No. 191 of 1972)
Explosives (Nitro-Benzene) Order, 1972 (S.I. No. 233 of 1972)
Explosives (Potassium Nitrate and Sodium Nitrate) Order, 1972 (S.I. No. 273 of 1972)
Keeping of Fireworks Order, 1984 (S.I. No 129 of 1984).
Import of Explosives Order 1994 (S.I. No. 449 of 1994)
Classification and Labelling of Explosives Order 1994 (S.I. No. 450 of 1994)
European Communities (Placing on the Market and Supervision of Explosives for Civil Uses) Regulation 1995 (S.I. No. 115 of 1996)
Sale of Explosives Order, 1997 (S.I. No. 364 of 1997)
Ammonium Nitrate Mixtures Exemption Order, 1997 (S.I. No. 365 of 1997)
Carriage of Dangerous Goods Act, 1998
Carriage of Dangerous Goods by Road Regulations, 2001 (S.I. No 492 of 2001)

Miscellaneous

EC Directive 91/477/EEC dated 8 June, 1991 on the Control of the Acquisition and Possession of Weapons. EC Directive 93/15/EEC dated 5 April, 1993 on the Harmonisation of the Provision Relating to the Placing on the Market and Supervision of Explosives for civil uses.